IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION No. 18348 of 2004

Between:

Smt. K.Varjula Damayanthi, W/o K.S.L.N.Sharma,
R/o.H.No.30-90-89, Bhudevi Nagar, Venkatapuram,
Alwal, RR Dist.

..... PETITIONER

AND

The Commissioner Alwal, Municipality RR District.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to pass an order, direction or writ, particularly, in the nature of writ of Mandamus directing the Commissioner, Alwal Municipality to pass appropriate orders on the application dt.20-08-2004 for grant of permit for reconstructing the house property being H.No.30-69/72, plot No.73, survey No.391, 391/A and 395 Kanajiguda, Alwal, R.R.Dist., submitted in the office of Respondent.

Counsel for the Petitioner : Mr.AKELLA.SREENIVAS RAO

Counsel for Respondent : Mr.R.TIMMA REDDY

The Court made the following :

ORDER:

Heard the learned counsel for petitioner and the learned Standing Counsel for Respondent, and both of them agreed for disposal of the writ petition finally at the stage of admission.

The petitioner claims to be owner of house bearing No.30-69/72 in Plot No.73 forming part of Survey Nos.391, 391/A and 395 admeasurign 150 sq.yards, Kanagiguda, Alwal Municipality, R.R.District. The petitioner stated to have been made application dated 20.8.2004 to the respondent for permission to re-construct the house by duly complying with all formalities. It is stated that the respondent has refused to receive the application of petitioner for re-construction on the ground that petitioner did not submit 'no objection certificate' from the revenue officials. Aggrieved by the same, petitioner filed the present writ petition seeking direction to the respondent to receive her application and accord construction permission without insisting on the 'no objection certificate' from the revenue officials.

This Court in **DISTRICT COLLECTOR v. N.KRISHNA MOHAN** categorically held that obtaining of No Objection Certificate from the Collector arises only when any law presupposes. Mere circular or execution order informing the petitioners to obtain No Objection Certificate along with the application filed seeking sanction of permission to construct a building is not at all warranted. This Court while reiterating the same in **HYDERABAD POTTERIES PRIVATE LIMITED v. DISTRICT COLLECTOR, HYDERABAD** categorically held that application for grant of permission to construct a building is conferred upon the Commissioner of Municipal Corporation to consider the same by taking into consideration the documents filed by the applicant along with the application, including the permission already granted by the Corporation to the applicant earlier. The Commissioner shall not reject the application of the petitioner solely on the basis of an objection purported to have been raised by the Joint Collector. The objections, if any raised, will also be taken into consideration with the relevant material on record. The Commissioner shall not reject the application of the petitioner for grant of permission solely on the basis of entries said to have been made in TSLR or not accompanied by any No Objection Certificate from the revenue officials. The said view is also upheld by the Division Bench in W.A.No. 1096 of 2001 dated 24.12.2001.

In view of the same, the respondent-Municipality is hereby directed to receive the

application of the petitioner for re-construction without insisting on the 'No Objection Certificate' from the revenue officials and consider the same and pass appropriate orders in accordance with law within four weeks from the date of receipt of a copy of this order.

With the directions as above, the writ petition stands disposed of.

No costs.

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A.GOPAL REDDY, J

Date: 8.10.2004

NOTE:

C.C. BY MONDAY

B/O

DA

To

1. The Commissioner Alwal, Municipality RR District.

2. Two CD copies.